

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Case No. 3:18cv635

United States of America

v.

Approximately \$2,209 in United States
Currency seized during execution of a
Search Warrant at Luxury Nails Salon in
Davidson, North Carolina; and

Approximately \$50,000 in funds seized via
Seizure Warrant from Wells Fargo Account
XXXXXX5867, such account held in the
name of Luxury Nails Salon.

**COMPLAINT FOR
FORFEITURE *IN REM***

NOW COMES the United States of America, by and through R. Andrew Murray, United States Attorney for the Western District of North Carolina, in a civil cause of forfeiture, and respectfully states the following:

INTRODUCTION

1. This is a civil action *in rem* pursuant to 18 U.S.C. §§ 981(a)(1)(C), 1594(e), and 984. Procedures for this action are mandated by Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions and, to the extent applicable, 18 U.S.C. §§ 981, 983, and 984, and the Federal Rules of Civil Procedure.

2. The defendants are all present and future interest in the following properties (hereafter collectively, “the Properties”):

a. Approximately \$2,209 in United States Currency (hereafter, “the

Currency”) seized during execution of a Search Warrant at Luxury Nails Salon in Davidson, North Carolina; and

- b. Approximately \$50,000 in funds (hereafter, “the Funds”) seized via Seizure Warrant from Wells Fargo Account XXXXXX5867, such account held in the name of Luxury Nails Salon.

3. This action seeks the forfeiture of all right, title and interest in the Properties because the Properties constitute or are derived from proceeds of forced labor in violation of 18 U.S.C. § 1589, and/or property involved in, used, or intended to be used to commit or facilitate such violation, or property traceable to such property. Specifically, as a result of forced labor set forth more fully below and involving victim KD, who endured abuse as she performed work for Luxury Nails Salon, Luxury Nails Salon received the Funds and Currency. Luxury Nails Salon and/or its owner also used or intended to use the Funds and Currency to purchase implements used in the physical abuse of KD during the course of the forced labor offense.

4. This Court has jurisdiction over this action commenced by the United States under 28 U.S.C. § 1345 and over this action for forfeiture under 28 U.S.C. § 1355(a). The Court has *in rem* jurisdiction over the Properties under 28 U.S.C. § 1355(b).

5. This Court has venue pursuant to 28 U.S.C. §§ 1355 and 1395. Venue is proper because the acts or omissions giving rise to the forfeiture occurred in this district, the claim accrued in this district, and the defendant Properties are located in this district.

6. On June 26, 2018, in the Western District of North Carolina, law enforcement seized the Currency pursuant to execution of a state Search Warrant at Luxury Nails Salon at 610 Jetton Street, Suite 240, Davidson, North Carolina, within the Western District of North

Carolina. Thereafter, on August 8, 2018, pursuant to a federal Seizure Warrant (WDNC Case 3:18MJ260) issued by this Court, law enforcement seized the Funds from Wells Fargo. The Properties remain in the custody of the Department of Homeland Security, Homeland Security Investigations (HSI) in the Western District of North Carolina.

7. Pursuant to Supplemental Rule G(2)(f), facts in support of a reasonable belief that the Government will be able to meet its burden of proof at trial are as follows and have been verified by the attached Verification of HSI Special Agent Kelly M. Harrison (“SA Harrison”).

INITIAL INVESTIGATION

Initial Encounter Between Victim KD and Law Enforcement

8. On Tuesday, June 26, 2018, officers with the Davidson Police Department (DPD) encountered a fifty year old Vietnamese-American female identified herein as KD. KD and a family member walked into the DPD office to report that KD’s employer, Thuy Tien Thuy Luong (“Luong”) had repeatedly physically assaulted her and forced her to enter into a debt servitude contract for approximately \$180,000. The employer told KD that her poor work performance had caused the employer’s store, Luxury Nails Salon at 610 Jetton Street, Suite 240, Davidson, North Carolina, to lose customers and profits in that amount. Initial investigation, including interviews and review of documentation, revealed the following:

Victim KD

9. KD is a Naturalized United States Citizen who was born in Vietnam. KD speaks limited English.

10. For approximately two years prior to her initial encounter with law enforcement, KD worked for Luong at Luxury Nails Salon. In the months prior to the seizure of the Currency

and Funds identified herein, although Luong's boyfriend Nip Tsi, described more fully below, purports to have worked at Luxury Nails Salon, the primary employees at Luxury Nails Salon who serviced customers and generated revenue were KD and another employee identified herein as Employee 2.

11. KD originally borrowed \$10,000 from Luong as a personal private loan to help pay for medical expenses and personal matters. As part of the payment agreement, KD began working for Luong. KD eventually paid off the debt in full within approximately one year, but continued to work for Luong.

12. For the two years prior to her initial encounter with law enforcement, KD worked seven days a week and did not take sick or vacation days. If KD was sick, she was still expected to report for work. KD often worked 10-12 hours per day, except on Sundays, when she worked 6-8-hours per day.

13. Approximately three months prior to KD's encounter with DPD, Luong accused KD of causing the business to lose customers and in-turn, lose profits as a result of alleged poor job performance.

Physical Harm to KD and Threats Against KD

14. Luong began physically assaulting KD during arguments, with these beatings increasing in frequency and severity over the three months prior to KD's initial encounter with law enforcement. For example, Luong assaulted KD as follows:

- a. On several occasions, Luong stabbed KD in the chest and back repeatedly with a metal cuticle pusher that had a sharp end, which would cause bleeding and pain. In June 2018, these wounds were evident to investigators in the form of numerous

scars at various stages of healing all over KD's chest and back. The metal cuticle pusher tool that Luong used to stab KD was a regular tool used on customers at Luxury Nails Salon during manicures.

- b. Luong also beat KD with a blunt metal object across her legs and thigh, causing deep bruising and abrasions that were still visible to investigators in June 2018. The blunt metal object that Luong used to hit KD's legs and thighs was a skin scraping tool used on customers at Luxury Nails Salon during pedicures.
- c. The tools that Luong used to assault and cause harm to KD are tools of the trade in the salon business, and Luxury Nails used funds from the account from which the Funds were seized to regularly purchase such tools.

15. Luong regularly sent text messages to KD, telling KD that she was a bad employee, an embarrassment to her family, and that she owed money. While interviewing KD, SA Harrison observed that KD's phone received numerous text message notifications from Luong. One of KD's family members indicated to SA Harrison that the messages contained degrading and aggressive statements to KD about her work performance and work attendance.

16. On approximately June 24, 2018, in the late evening hours, Luong and her boyfriend, Nip Tsi, went to KD's home. While there, Luong told KD's family members that KD was a bad employee and was damaging the profits of her business. Luong then asked KD to get into Tsi's car so that they could have a private conversation. Tsi drove the car while KD and Luong were in the back seat. Luong berated KD and physically assaulted her. In the interview that followed shortly after this assault, KD had two black eyes and a swollen split lip, which she said were the result of Luong beating her.

Luong's Financial Dealings with and Mistreatment of KD

17. Luong told KD that her poor work performance had caused the salon to lose money. For approximately five previous paychecks before KD ultimately approached DPD, Luong would issue KD a paycheck, drive KD to the bank and allow her to cash it, and then take the money back from KD. Luong told KD that people would see by the paychecks that Luong was paying KD as required, but nobody would know that Luong was taking the money back. KD stated that her paychecks from Luong were on checks identifying account information for Luxury Nails Salon.

18. Luong also had KD write and sign a document stating that KD was personally responsible for lost profits to the business and that KD's debt to Luong was \$180,000. The document stated that KD was not permitted to leave her employment until the debt was paid in full. Luong told KD that her debt increased by \$1,000 for each customer who KD poorly served. KD also stated that Luong used her phone to record KD reciting portions of the document, and made KD say that that she owed money and was a bad worker.

19. Luong coerced KD into giving her a diamond bracelet that belonged to KD. KD estimated the value of the bracelet at \$5,000. Luong told KD that she intended to either sell the bracelet to recoup money for KD's debt to her, or keep it as leverage until KD repaid or worked off her debt to Luong.

20. In June 2018, Luong took KD's purse, retrieved KD's credit cards and health insurance card, and cut the items and placed them in the trash. Luong told KD that KD did not need the credit cards. Luong also began to cut-up, but did not totally destroy, KD's driver's license.

EXECUTION OF SEARCH WARRANT

21. On June 26, 2018, law enforcement executed a state Search Warrant on Luxury Nails Salon. Law enforcement seized, among other documents and items, the following:

- a. Law enforcement seized a variety of business records identifying Luong as the owner and operator of Luxury Nails Salon. One of these documents was a checkbook issued by Wells Fargo for checking account XXXXXX5867, with the account holder listed as Luxury Nails Salon.
- b. Law enforcement seized a hand-written document in the Vietnamese language found inside a notebook. The document stated that KD owed \$180,000 to Luong because of her poor work performance.
- c. Law enforcement seized a diamond bracelet with receipt records reflecting that the bracelet belonged to KD.
- d. Law enforcement seized a cuticle pusher and heel scraper, like the items previously mentioned, in bulk volume packaging. Law enforcement also located and seized a heel scraper from the break room trash can and located and seized a cuticle pusher stored in sterile packaging in the main area of the salon.
- e. Law enforcement also seized the Currency.

ARREST AND INTERVIEWS OF LUONG AND TSI

22. On June 26, 2018, the day of the Search Warrant, law enforcement arrested Luong and Tsi for felony assault inflicting serious injury in violation of North Carolina law.

23. After a CMPD Detective fluent in Vietnamese read Miranda rights in Vietnamese to Luong, Luong waived her rights and made a statement to investigators. Luong advised, among other things, as follows:

- a. Luong operates and manages Luxury Nails Salon. Luong is not otherwise employed and Luxury Nails Salon is her sole source of income.
- b. Luong has known KD for several years. KD began working for Luong when Luong loaned \$10,000.00 to KD. KD eventually repaid Luong in full, but continued to work for Luong.
- c. Luong stated that KD has intentionally been doing poor work for customers to try to make Luxury Nails Salon lose business. Luong believed that she had lost \$180,000 in business profits because of KD's poor work performance. Luong acknowledged that she required KD to sign a document admitting to the debt. Luong showed investigators the location of the document in the salon.

24. After a CMPD Detective fluent in Vietnamese read Miranda rights in Vietnamese to Tsi, Tsi waived his rights and made a statement to investigators. Tsi advised, among other things, as follows:

- a. Tsi has dated Luong for several years.
- b. Tsi has worked at Luxury Nails Salon since approximately 2012. Tsi initially only worked part-time at the salon but, in 2018, began to work more hours at the salon. Tsi was unclear as to how much he worked at the salon or how much, if any, revenue he generated.
- c. KD has worked at Luxury Nails Salon for approximately two years.

- d. Luong conducted counseling sessions with KD about her work performance.
- e. On approximately June 24, 2018, in the evening, TSI received a text message from Luong's cell phone on his cell phone. The message stated that Luong needed a ride to go to KD's house to have a counseling session. TSI drove Luong to KD's house and KD and Luong met in the back seat of Tsi's vehicle.

FINANCIAL ANALYSIS AND SEIZURE OF FUNDS

25. During the times set forth herein, Luxury Nails Salon maintained a business checking bank account at Wells Fargo Bank Account XXXXXX5867 (hereafter, "the Luxury Nails Account"). As set forth more fully herein, law enforcement seized the Funds from this Luxury Nails Salon.

26. According to the account profile for the Luxury Nails Account, Luong has been the sole proprietor of Luxury Nails Salon since at least 2013. Luong is the account holder for the Luxury Nails Account. In 2013, Luong reported to Wells Fargo that the average yearly profit from the business was \$171,000.

27. As noted above, interviews to-date have identified that, during the times set forth herein, Luong paid checks to KD out of the Luxury Nails Account, and then reclaimed the money purportedly paid to KD.

28. Further, based on documentation from Kimco Realty, Luong provided Kimco Realty Corporation with a voided check from the Luxury Nails Account. This voided check was attached to a notarized, signed authorization agreement for direct debit to Kimco Realty to pay deposits and rent for the salon. Luong used the Luxury Nails Account to pay rent for the salon.

For example, on March 29, 2013, Luong signed and submitted to Kimco Realty Corporation a check from the Luxury Nails Account in the amount of \$2,708.50 for monthly rent.

29. Exploitation of KD as previously described began at least by or about March 1, 2018 and continued through summer of 2018. From between approximately March 1, 2018 through July 18, 2018, prior to seizure of the Funds, the following activity occurred in the Luxury Nails Account:

a. Purchases:

- i. There were occasional purchases for what appeared to be supplies and tools consistent with those used in legitimate services provided by a nail salon. For example, on March 6, 2018, LUONG signed business check #2491 in the amount of \$597.00 paid to the order of “Maxim Nail Mall.” On May 28, 2018, LUONG signed business check number #2543 in the amount of \$119.99 paid to the order of “Pro Spa Depot.”
- ii. Maxim Nail Mall is a storefront business located at 4520 N. Tryon Street, Charlotte, NC which sells bulk quantity professional nail service products, such as the foot scraper and cuticle tool used in the assault of KD.

b. Payroll:

- i. There was a consistent pattern of checks signed by Luong and issued to TSI, Employee 2, and KD for what appeared to be payroll. Checks were issued to each person bi-weekly in general. The total employees at the salon from March 1, 2018 to July 18, 2018 were Luong (as owner), TSI, Employee 2, and KD. Luong did not perform services on customers at the salon, but

was rather a management figure at the store and would only take receipt of payments from customers. The hours worked by TSI were only part time and he was not clear with investigators about whether he ever worked fulltime hours. Thus, the labor and services at the salon from at least January 2018 to July 18, 2018 were performed by TSI only in part (who is Luong's boyfriend), Employee 2, and KD, who worked substantially more than full-time hours at the salon.

- ii. As to KD specifically, from March 1, 2018 to July 18, 2018, approximately 14 checks totaling approximately \$11,000 were written by Luong and paid to the order of KD for what appeared to be payroll. The average amount issued was approximately \$800.00. However, as described above, KD was forced to give her payroll money back to Luong once checks were cashed.
- iii. Numerous checks signed by Luong and paid to the order of KD were ultimately cashed at the Bank of America branch in Cornelius, consistent with KD's statement as previously described where she was issued paychecks and cashed them at a Bank of America branch in Cornelius.
- iv. For example, on April 8, 2018, Luong signed business check #2519 in the amount of \$791.00 paid to the order of KD, and this check was endorsed by KD and cashed on April 26, 2018 at 4:48PM EST at the Bank of America in Cornelius, NC.
- v. On April 15, 2018, LUONG signed business check #2522 in the amount of \$838.00 paid to the order of KD, and this check was endorsed by KD and

cashed on April 26, 2018 at 4:49PM EST at the Bank of America in Cornelius, NC.

- vi. On June 10, 2018, Luong signed business check #2553 in the amount of \$795.00 paid to the order of KD, and this check was endorsed by KD and cashed on June 13, 2018 at 3:33PM EST at the Bank of America in Cornelius, NC.

c. Merchant/Customer Credits:

- i. Based on bank records for the time period of March 1, 2018 to June 26, 2018 (the approximate time period of the forced labor set forth herein), at least approximately \$131,000 in merchant/customer credits were deposited in the Luxury Nails Account. During this time-period, KD was forced to work at the salon seven days per week for 10-12 hours per day, with the exception of 6-8 hours on Sundays. Thus, in total, KD was forced to work anywhere from approximately 66 hours per week to 80 hours per week. Therefore, KD's work contributed to a significant portion of the services the salon provided to customers and the profit that the business was able to acquire during this time period. This work was under the burden of a signed debt contract as well as physical assault, and the threat of physical assault, from at least March 1, 2018 to July 18, 2018.

30. As of July 18, 2018, the balance of the Luxury Nails Account was \$103,171.47. On August 9, 2018, pursuant to probable cause, SA Harrison executed a federal Seizure Warrant on the Luxury Nails Account for seizure of \$50,000 from the account—an amount that constituted

approximately half of the money in the account—on the basis that no less than half of Luxury Nail Salon’s revenues constituted proceeds of violations whereby KD was victimized.

CONCLUSION

31. By virtue of the foregoing and pursuant to 18 U.S.C. § 981(f), all right, title and interest in the Properties vested in the United States at the time of the commission of the unlawful act giving rise to forfeiture and has become and is forfeitable to the United States.

WHEREFORE, the Government respectfully requests the Court that:

1. Due notice be given to all parties to appear and show cause why the forfeiture should not be decreed;
2. Judgment be entered declaring the Properties to be condemned and forfeited to the United States of America for disposition according to law; and
3. The United States be granted such other and further relief as this court may deem just and proper, together with the costs and disbursements of this action, including but not limited to the expenses of maintenance and protection of the Properties as required by 28 U.S.C. § 1921.

Respectfully submitted, this the 27th day of November, 2018.

R. ANDREW MURRAY
UNITED STATES ATTORNEY

s/ Benjamin Bain-Creed
Florida Bar # 0021436
Assistant United States Attorney
Suite 1650, Carillon Building
227 West Trade Street
Charlotte, North Carolina 28202
Telephone: (704) 344-6222
Email: benjamin.bain-creed@usdoj.gov

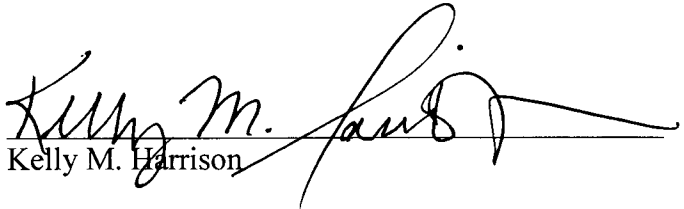
STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

VERIFICATION

Kelly M. Harrison deposes and says under penalty of perjury:

I am a Special Agent with Department of Homeland Security-Homeland Security
Investigations, and one of the agents assigned to this case.


I have read the foregoing Complaint and the factual information contained therein is true
according to the best of my knowledge, information, and belief.


Kelly M. Harrison

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I certify that Kelly M. Harrison personally appeared before me this day, acknowledging
to me that he signed the foregoing document.

This the 27th day of November, 2018.


Notary Public
My Commission Expires: Sept. 25, 2021

